

EDWARD HAN (SB# 196924)
edwardhan@paulhastings.com
JESSICA E. MENDELSON (SB# 280388)
jessicamendelson@paulhastings.com
PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, California 94304
Telephone: (650) 320-1800
Facsimile: (650) 320-1900

JENNIFER BALDOCCHI (SB#168945)
jenniferbaldocchi@paulhastings.com
TIMOTHY D. REYNOLDS (SB# 274589)
timothyreynolds@paulhastings.com
PAUL HASTINGS LLP
515 South Flower Street, 25th Floor
Los Angeles, California 90071
Telephone: (213) 683-6000
Facsimile: (213) 627-0705

Attorneys for Defendants
Translucence Research, Inc., Benjamin Fisch,
Charles Lu, and Nathan McCarty

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TEMUJIN LABS INC., a Delaware
corporation, and TEMUJIN LABS INC., a
Cayman Islands corporation

Plaintiffs,

vs.

TRANSLUCENCE RESEARCH, INC., a
Delaware corporation, BENJAMIN FISCH,
CHARLES LU, BENEDIKT BÜNZ,
NATHAN MCCARTY, FERNANDO
KRELL, PHILIPPE CAMACHO CORTINA,
BINYI CHEN, AND LUOYUAN (ALEX)
XIONG, and DOES 1-20,

Defendants.

CASE NO. 4:21-cv-09152-JST

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
COMPLAINT, OR IN THE
ALTERNATIVE, TO STAY CASE**

Date: May 5, 2022
Time: 2:00 p.m.
Courtroom: Courtroom 6 - 2nd Floor
Judge: Hon. Jon S. Tigar

Complaint Filed: November 24, 2021

On May 5, 2022, in Courtroom 6 of the above-captioned court, a hearing was held on Defendants Translucence Research, Inc., Benjamin Fisch, Charles Lu, and Nathan McCarty's (collectively "Defendants") Motion to Dismiss Plaintiffs' Complaint, or in the Alternative, to Stay the Case ("Motion").

Having fully considered the Motion, the Request for Judicial Notice, the Declaration of Edward Han with attached exhibits, the opposing papers, the reply memorandum in support of the Motion and all evidence and other matters presented to the Court, the Court hereby GRANTS Defendants' Motion.

IT IS HEREBY ORDERED THAT:

Plaintiffs' Temujin Labs Inc., a Delaware Corporation, and Temujin Labs Inc. a Cayman Island Corporation, (together, the "Plaintiffs") Complaint is DISMISSED with prejudice in its entirety for the following reasons:

- ☐ Plaintiffs' First Cause of Action under the Defend Trade Secrets Act 18 U.S.C. § 1836, *et seq.*, and Second Cause of Action under CUTSA fail to plead with the requisite particularity the existence of a protectable trade secret.
- ☐ Plaintiffs' Third Cause of Action for trade libel fails as a matter of law because Plaintiffs do not adequately plead special damages nor identify the author or speaker, recipient, time, and location of any allegedly libelous statement.
- ☐ Plaintiffs' Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action for intentional interference with contractual relations, intentional interference with prospective economic advantage, unfair competition, civil conspiracy, and declaratory relief fail to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6) because the claims are (a) preempted by the California Uniform Trade Secrets Act ("CUTSA") and (b) the claims fail to allege each and every element of the particular claim and thus fail to state a claim as a matter of law.
- ☐ The Complaint is substantially similar to the parallel state court proceeding entitled *Temujin Labs, Inc. v. Abittan, et al.*, Case No. 20-CV-372622 (Santa Clara Sup. Ct.

1 Nov. 6, 2020) (“State Court Action”) and, pursuant to *Colorado River Water*
2 *Conservation Dist. v. United States*, 424 U.S. 800 (1976), the Complaint shall be
3 dismissed in favor of the State Court Action.
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5 **IT IS SO ORDERED.**

6 Entered this ____ day of _____, 2022.
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9 Hon. Jon S. Tigar
10 United States District Court Judge
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